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No. 3:12-cv-2039

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<u>ITEM</u>	<u>PAGES</u>
1. Act No. 128 of July 23, 2008	1- 6
2. Act No. 75 of August 25, 2005	7 - 13
3. Act No. 135 of June 19, 1999	14 - 18

(S. B. 2320)

(No. 128)

(Approved July 23, 2008)

AN ACT

To direct the Superintendent of the Puerto Rico Police to take the necessary steps for the holding of a referendum among members of the Police Corps for them to decide whether service in positions covered by the Commonwealth Retirement System shall be excluded or included in the agreement between the Secretary of Health and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police; to create a Referendum Commission and establish its duties and obligations.

STATEMENT OF MOTIVES

Through Section 107 of Act No. 734 of August 28, 1950, the 81st Congress of the United States authorized public employees of the Commonwealth of Puerto Rico to participate in the Federal Social Security System. A referendum among Puerto Rican public employees was held for this purpose. The vast majority of the employees voted in favor of participating in this Retirement System. However, some public employees among which are policemen, firefighters, and teachers, refrained from participating in the Federal Social Security.

Several organizations that represent the members of the Puerto Rico Police have requested that these public employees be given another opportunity to vote for participation in the Federal Social Security System. This claim arises from the interest of these public officers in contributing to a program that can help to cover financial needs that may arise upon their

retirement. Act No. 135 of June 18, 1999 granted to the members of the Puerto Rico Police the opportunity to hold a referendum regarding their participation in the Federal Social Security System. Prior to said referendum, little orientation was provided for the police officers who participated in the same.

In the last referendum held on this issue, on March of 2006, the majority of the members of the Police voted for the participation in this System, however, they did not meet the minimum number required by Act No. 75 of August 25, 2005.

The Legislature has received a new request to enable voting on the possibility of the participation of police officers in the Federal Social Security System. This is deemed to be a fair claim thus the holding of a referendum among the members of the Police is directed through this measure.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. – The Superintendent of the Puerto Rico Police is hereby directed to take the necessary steps for the holding of a referendum among members of the Police Corps to decide whether service in positions covered by the Commonwealth Retirement System shall be excluded or included in the agreement between the Secretary of Health and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police.

Section 2. – The Referendum shall be held pursuant to the provisions of this Act and to those of Section 218 of Chapter 531 of Title II of Federal Social Security Act No. 271 of August 14, 1935, as amended, which regulates voluntary agreements between the Social Security Commissioner

and State governments for the purpose of extending the benefits provided by the Federal Social Security System to the public employees of Puerto Rico.

Section 3. – Referendum Commission

a) To comply with the objectives stated in this Act, within thirty (30) days after the effectiveness of this Act, the Police Superintendent shall appoint a Referendum Commission composed of one Chairperson, who shall be the Police Superintendent, one representative of each of the following organizations; Puerto Rico Police Federation, United Organized Police Front, Puerto Rico Police Members Association, the National Council of Police Officers; the Association of Organized Police Officers; the Organized Police Officers Corps; the Organization of Police Officers in Action; the Police Department Management Employees Union; the United Puerto Rican Police Officers; the Puerto Rican Police Officers Syndicate; Organized Civilian Employees; a Police officer, an unaffiliated member of the Police who does not have officer's rank, a Police Academy Cadet, and a representative of the Federal Social Security.

The Police Superintendent, as Chairperson of the Referendum Commission shall have the authority to summon those officials from government agencies who may be linked to or whose agencies may be impacted by the results of the referendum and who may contribute with their expertise to the orientation process for the members of the Police Corps to the Commission meetings.

The Police Superintendent is hereby authorized to delegate his/her functions as Chairperson of the Referendum Commission on a representative of his/her choosing from the Police Corps.

b) The Referendum Commission shall be responsible for orienting all the members of the Police of the reasons for and the consequences of the Referendum. To comply with the said responsibility, the Commission shall take the necessary steps to publish information material and hold at least two (2) forums per police district in which the pros and cons of the inclusion shall be discussed. The Referendum Commission shall establish the criteria to participate and shall adopt those mechanisms, regulations, ballots and procedures that it deems are needed for the consultation and the canvassing of ballots.

c) Upon the appointment of the members of the Referendum Commission, the Police Superintendent shall provide it with an updated list that includes the name, address and badge number of all the members of the Puerto Rico Police.

d) Within thirty (30) days after its constitution, the Referendum Commission shall publish a notice on the holding and purposes of the Referendum. Said notice shall be published at least two (2) times in two (2) newspapers of general circulation in Puerto Rico and shall also appear in the web page or internet site of the Puerto Rico Police.

e) Within ninety (90) days after its constitution, the Referendum Commission shall proceed to consult the members of the Police Corps through Referendum, in order for them to decide whether services in positions covered by the Commonwealth Retirement System shall be excluded or included in the agreement between the Secretary of Health and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico, in order to extend Federal Social Security benefits to the members of the Puerto Rico Police.

f) The Referendum voting process shall be conducted in each Police Station throughout Puerto Rico, and shall last the twenty-four (24) hours of the day fixed for voting. After the votes are cast, the Referendum Commission shall inform the results to the members of the Police within a term of thirty (30) days after the canvassing has concluded.

Section 4. – If the majority of the members of the Puerto Rico Police vote in favor of the participation in the Federal Social Security System, the Police Superintendent shall handle the inclusion of the members of the Puerto Rico Police in said System, immediately after the results of the Referendum are known. For the purposes of this Act, the affirmative vote of the majority required for the referred voting shall be fifty (50) percent plus one (1) of the eligible members of the Police, pursuant to the provisions of Section 2 of this Act.

Should the results of said referendum be against participation in the Federal Social Security System, the Police Superintendent the may hold additional referendums, pursuant to the parameters set forth in this Act, provided that a minimum of three (3) years has elapsed between each consultation.

Section 5. – This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 128 (S.B. 2320) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to direct the Superintendent of the Puerto Rico Police to take the necessary steps for the holding of a referendum among members of the Police Corps for them to decide whether service in positions covered by the Commonwealth Retirement System shall be excluded or included in the agreement between the Secretary of Health and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police; to create a Referendum Commission and establish its duties and obligations,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 30th of January of 2009.

Kevin Miguel Rivera-Medina, Esq.
Deputy Director

(H. B. 1088)

(No. 75)

(Approved August 25, 2005)

AN ACT

To authorize the Superintendent of the Puerto Rico Police to hold a referendum among the members of the Police Force so they may decide whether the positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health and Social Services of the United States and the Government of the Commonwealth of Puerto Rico in order to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police; to create a Committee on the Referendum; and for other purposes.

STATEMENT OF MOTIVES

The Congress of the United States of America, through Section 107 of Public Law No. 734 of the 81st Congress, approved August 28, 1950, authorized the Federal Secretary of Health and Social Services to extend the benefits of the Federal Social Security to the employees of the Government of Puerto Rico. At that time a Referendum was held among the public employees who were to decide whether or not to avail themselves of that service.

Most of the public employees did join the Federal Social Security services but part of these public servants decided against availing themselves of those benefits, such as the firefighters, the teachers and the members of

the Police force. At present, those groups approach their district representatives and senators in the hope of being given the opportunity of having a referendum held through which to have the alternative of availing themselves of the benefits of the Federal Social Security.

Act No. 135 of June 18, 1999, gave the members of the Police Force the opportunity of participating in a referendum as to their joining the Social Security system. Before said referendum was held little orientation was provided for the police officers who participated in the same.

At present, those groups approach their district representatives and senators in the hope of being given the opportunity of having a referendum held through which to have the alternative of availing themselves of the benefits of the Federal Social Security. We believe it is necessary to authorize the celebration of a referendum among the members of the Puerto Rico Police Force that would give them the alternative of availing themselves of the benefits of the Federal Social Security and provide them with the orientation they need to make a well informed decision.

This Bill was one of many to which this Parliamentary Majority was committed, and at the same time was one of the commitments backed by the People with their vote this past November 2^o.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-The Superintendent of the Puerto Rico Police is hereby authorized to hold a referendum among the members of the Police Force so they may decide whether the positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health and Social Services of the United States and the Government of the Commonwealth of Puerto Rico in order to extend the

benefits of the Federal Social Security System to the members of the Puerto Rico Police.

Section 2.-The referendum shall be held pursuant to the term provided in subsection (g) of Section 4 of this Act and what is established in Section 218(d)(3) of Chapter 531 of Title II of Public Law 271 of August 14, 1935, as amended, which regulates the voluntary agreements between the Secretary of Health and Social Services of the United States and the state government for the purpose of extending to the employees of the state governments and of Puerto Rico the benefits provided by the Federal Social Security System.

Section 3.-Should the results of the referendum be affirmative, the Superintendent of the Puerto Rico Police is authorized to take steps to include the members of the Force immediately after said results are known, provided that the effective date of said inclusion shall coincide with the effective date of a future increase of not less than one hundred (100) dollars a month to the basic salary of the members of the Puerto Rico Police.

Section 4.-Transitory Provisions

A. Within ninety (90) days after the effective date of this Act, and to achieve the objective set forth in its Section 1, the Superintendent of Police shall appoint a Committee on the Referendum. The Committee on the Referendum shall be constituted by a Chairperson, who shall be the Superintendent of Police, a representative of each of the following organizations: the Puerto Rico Police Federation; the Organized Police Officers United Front; the Puerto Rico Police Members Association; the National Council of Police Officers; the Association of Organized Police Officers; the Organized Police Officers Corps; the Organization of Police Officers

in Action; the Police Department Management Employees Union; the United Puerto Rican Police Officers; the Puerto Rican Police Officers Syndicate; Organized Civilian Employees, a Police Officer, a non-affiliated member of the Police Force with a rank below official, a cadet from the Criminal Justice University College and representative of the Federal Social Security.

The Superintendent of Police, as Chairperson of the Committee on the Referendum, shall have the authority to summon to the Committee meetings those officials from government agencies who may be linked to or whose agencies may be impacted by the results of the referendum and who may contribute with their expertise to the orientation process for the members of the Police Force.

The Superintendent of Police is hereby authorized to be able to delegate his/her functions, as Chairperson of the Committee on the Referendum, to a representative of his/her choosing from the Police Force.

B. The main duties of the Committee on the Referendum shall consist of giving orientation to all members of the Puerto Rico Police about the referendum, its reasons and its consequences, including the publication of informative materials and the celebration of at least two forums per police area for discussing the pros and cons of the inclusion. The same shall be conducted pursuant to this Act. The Committee on the Referendum shall establish the criteria for participating in the same and adopt those mechanisms, regulations, ballots and procedures it may deem necessary for the consultation and the counting of votes.

P. 11.

C. Once the members of the Committee on the Referendum have been appointed, the Superintendent of Police shall provide the latter with an updated list with the names, addresses and badge numbers of all the members of the Puerto Rico Police Force.

D. Within thirty (30) days after its creation, the Committee on the Referendum shall publish a notice about the celebration and purposes of the Referendum. Said notice shall appear at least twice in three (3) newspapers of general circulation in Puerto Rico.

E. Within ninety (90) days after its creation, the Committee on the Referendum shall proceed to consult the Police Officers of Puerto Rico in a Referendum so that they may decide whether service in positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health and Social Services of the United States and the Government of the Commonwealth of Puerto Rico in order to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police.

F. Voting in the Referendum shall take place at every Police Headquarters throughout all Puerto Rico and extend for the twenty-four (24) hours of the voting day. After the voting, the Committee on the Referendum shall give an account of the results to the members of the Police within thirty (30) days after the counting of the votes has concluded and the Superintendent of Police, shall take steps, immediately after the results are known and are affirmative, to proceed with the inclusion of the members of the Police Force in the Federal Social Security System.

G. To authorize the Superintendent of Police to take steps to include the members of the Police Force in the Federal Social Security System, the affirmative vote of the majority of the Police Officers, which shall be 50 percent plus one of the members of the Police Force, shall be required.

H. The Office of Management and Budget is directed to include the appropriations needed for the Committee on the Referendum to hold the consultation, in the next balancing of the budget for fiscal year 2006-2007 to be presented to the Legislature.

I. Should the results of the referendum in question be affirmative, the Office of Management and Budget is directed to include the entries needed to be able to include the members of the Puerto Rico Police in the Federal Social Security Program in the balancing of the budget for fiscal year 2007-2008, to be presented to the Legislature.

Section 5.-This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 75 (H.B. 1088) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to authorize the Superintendent of the Puerto Rico Police to hold a referendum among the members of the Police Force so they may decide whether the positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health and Social Services of the United States and the Government of the Commonwealth of Puerto Rico in order to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police; to create a Committee on the Referendum; and for other purposes,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 17th of January of 2006.

Francisco J. Domenech
Director

(S.B. 1385)

(No. 135)

(Approved June 18, 1999)

AN ACT

To authorize the Superintendent of the Puerto Rico Police to hold a referendum among the members of the Police Corps, to decide whether services in positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health, and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico, in order to extend the Federal Social Security benefits to the members of the Puerto Rico Police Corps; create a Referendum Commission, and for other purposes.

STATEMENT OF MOTIVES

In 1950, the Congress of the United States authorized the Secretary of Health and Social Services, through Public Law No. 734 (Section 107) 81st Congress, Second Session, approved on the 28th of August, to extend Federal Social Security Benefits to the employees of the Government of Puerto Rico, its instrumentalities and municipalities. To such effects, a referendum was held among all public employees to decide whether or not they would avail themselves of the Federal Social Security benefits.

Even though most of the public employees voted in favor of the extension of these services, there were some who opted not to avail themselves of such benefits. Among those who did not, were the police, the fire fighters and the teachers.

The members of the Puerto Rico Police Force have always striven and worked unceasingly in the fight against crime. These uniformed public servants deserve a number of privileges and opportunities that will stimulate them to do their work well.

At times, the members of the Puerto Rico Police have remitted petitions to the Legislature asking to be given another opportunity to state their wishes as to the possibility of availing themselves of the Social Security benefits. To such effects, it is necessary to once again hold a referendum authorized by law, and with the approval of the Governor of Puerto Rico.

Therefore, the Legislature of Puerto Rico deems it is necessary to authorize a referendum to be held among the members of the Police Force, to decide whether or not to avail themselves of the benefits provided by the Federal Social Security System. Thus, these uniformed public servants who have done so much to ensure the safety of all the people of Puerto Rico are again given the opportunity to indicate their choice with regard to the extension of said benefits to them.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.— The Superintendent of the Puerto Rico Police is hereby authorized to hold a referendum among the members of the Police Corps for them to decide whether service in positions covered by the Commonwealth Retirement System should be included or excluded in the agreement between the United States Secretary of Health, and for Social Services and the Government of the Commonwealth of Puerto Rico, to extend the benefits of the Federal Social Security System to the members of the Puerto Rico Police.

Section 2.— The referendum shall be held during 1999, pursuant to the provisions of Section 218(d)(3) of Chapter 531 of Title II of Public Law 271

of August 14, 1935, as amended, which regulates the voluntary agreements between the United States Secretary of Health, and of Social Services and the State governments, with the purpose of extending the benefits provided by the Federal Social Security System to the employees of the State governments and of Puerto Rico.

Section 3.— If the result of the referendum is in the affirmative, the Superintendent of the Puerto Rico Police is authorized to take action to include the members of the Police Corps immediately after said result is known.

Section 4.— Transitory Provisions

A. Within ninety (90) days following the effectiveness of this Act, and for the purpose indicated in Section 1, the Superintendent of Police shall appoint a Referendum Commission composed of one (1) Chairman and six (6) members of the Puerto Rico Police, and one (1) representative of the U.S. Social Security Administration. The Referendum Commission shall be composed of one (1) Chairperson, who shall be the Superintendent of Police, a representative of the Puerto Rico Police Federation, a representative of the United Organized Police Front, a representative of the Puerto Rico Police Members Association, a Police officer, an unaffiliated member of the Police who does not have officer's rank, a Police Academy Cadet, and a representative of the U. S. Social Security Administration.

B. The main function of the Referendum Commission shall be that of orienting all the members of the Police Force on the referendum, its motives and consequences, and to execute it pursuant to this Act. The Referendum Commission shall establish the criteria to participate and shall adopt those mechanisms, regulations, ballots and procedures that they deem are needed for the consultation and counting of ballots.

C. When the Referendum Commission is appointed, the Superintendent of Police shall provide it with an updated list that includes the name, address and badge number of all the members of the Puerto Rico Police Force.

D. Within thirty(30) days after being appointed, the Referendum Commission shall publish a notice of the consultation and the purposes of the Referendum. Said notice shall be published at least two (2) times in two (2) daily newspapers of general circulation in Puerto Rico.

E. Within sixty days after its appointment, the Referendum Commission shall proceed to consult the Police through said Referendum, in order for them to decide whether services in positions covered by the Commonwealth Retirement system shall be excluded or included in the agreement between the U.S. Secretary of Health, and of Social Services and the Government of the Commonwealth of Puerto Rico, in order to extend Social Security System benefits to the members of the Puerto Rico Police Force.

F. The Referendum vote shall be held in each Police Station throughout Puerto Rico, and shall be extended for the twenty-four (24) hours of the voting day. After the vote is cast, the Referendum Commission shall inform the results to the members of the Police Force within thirty (30) days after the votes have been counted.

G. The affirmative vote of a majority of the Police shall be required to authorize the Superintendent of Police to take steps to include the members of the Police Force.

Section 5.— This Act shall take effect immediately after its approval.

June 26, 2001

Dynorah R. Requena-Gallego, Esq., Acting Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that she has duly compared the English and Spanish texts of Act No. 135 (S.B. 1385) of the 5th Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to authorize the Superintendent of the Puerto Rico Police to hold a referendum among the members of the Police Corps, to decide whether services in positions covered by the Commonwealth Retirement System should be excluded or included in the agreement between the Secretary of Health, and of Social Services of the United States and the Government of the Commonwealth of Puerto Rico, etc.,

and finds the same are complete, true and correct versions of each other.

Dynorah R. Requena-Gallego